

Not Intended for Print Publication

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
BIG STONE GAP DIVISION**

**UNITED STATES OF AMERICA**

v.

**THOMAS W. HAYES,**

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Case No. 2:06CR00010

**OPINION AND ORDER**

By: James P. Jones

Chief United States District Judge

*Paul Whetstone, Morristown, Tennessee, for Defendant.*

The defendant seeks review of an order of the magistrate judge. *See* Fed. R. Crim. P. 59(a). The defendant is charged with conspiracy to possess with intent to distribute and to distribute oxycodone, 21 U.S.C.A. §§ 841(b)(1)(C), 846 (West 1999 and Supp. 2006), and he moved for a bill of particulars as to that charge, Fed. R. Crim. P. 7(f), which the magistrate judge denied.

The indictment in this case adequately charges the offense. As noted by the magistrate judge, the government normally provides “open file” discovery to defendants in this district. Under these circumstances, the magistrate judge’s decision to deny the motion was not contrary to law or clearly erroneous. *See United States v. Duncan*, 598 F.2d 839, 849 (4th Cir. 1979).

For the foregoing reasons, it is **ORDERED** that the defendant's objection to the magistrate judge's order of June 2, 2006, is DENIED.<sup>1</sup>

ENTER: June 13, 2006

/s/ JAMES P. JONES  
Chief United States District Judge

---

<sup>1</sup> I will dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not significantly aid the decisional process.